

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.660 OF 2006

Office Notes, Office
Memoranda of Coram Court's or Judge's orders
appearances, Court's orders
or directions and
Registrar's orders

Mr.Charanjeet Chanderpal for the
petitioners.

Respondent no.1 present in person.

Mr.P.M.Rustomkhan Advocate in
person-Respondent no.2.

Coram : R.S.Mohite, J

Date : 4th April, 2006.

PC

1. By this petition what is challenged is concurrent orders of 2 lower Courts refusing to discharge the applicants in criminal case where process has been issued under Section 406 of the IPC. The complainant in the case was a tenant of the premises. By a leave & license agreement executed in favour of petitioner no.3 the premises were handed over to the petitioner no.3. The leave & license contract stipulated that

petitioner no.3 would not part with the possession without express consent in writing of the complainant. When by a letter dated 6.6.1989, the complainant has informed that the possession of the property had been given to the third party, a criminal complaint has been filed alleging that the premises had been entrusted to the licensee and that there was breach of trust as in violation of a legal contract the possession had been handed over to the third party. Subsequently, complainant had to file a suit for eviction against the licensee as well as the unlawful occupant. In this factual background, both the Courts have held that prima facie case for breach of trust is made out. I find no fault with the findings of the 2 lower courts. Therefore, Writ petition stands dismissed.

2. It is however, made clear

that the observations of the 2 lower Courts as well as my observation in this order are only prima facie in nature and will not be taken into account at the stage of trial. Affidavit of respondent no.2 taken on record.

(R.S.Mohite, J)